

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

[R06-337]

PREAMBLE

- | | |
|-------------------------------------------------|------------------------------------------|
| <u>1. Sections Affected</u>
R20-5-601 | <u>Rulemaking Action</u>
Amend |
|-------------------------------------------------|------------------------------------------|
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 23-405(4)
Implementing statute: A.R.S. § 23-410
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 12 A.A.R. 3077, August 25, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: William M. Wright, Assistant Director
Address: Division of Occupational Safety and Health
Industrial Commission of Arizona
800 W. Washington St., Suite 203
Phoenix, AZ 85007
Telephone: (602) 542-1695
Fax: (602) 542-1614
E-mail: wright.william.m@dol.gov
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
In order to conform to the Federal Occupational Safety and Health Standards as required by Section 18(c) of the Federal Occupational Safety and Health Act of 1970 requiring state-administered occupational safety and health programs to adopt standards that are at least as effective as those adopted by the U.S. Department of Labor. R20-5-601 is amending the rule to incorporate by reference the revisions of the Roll-Over Protection Structures, CFR 1926 standard, published as a direct final rule in 71 FR 2879-2885, December 29, 2005, and became effective on February 28, 2006. OSHA has issued these revisions to reinstate the original Roll-Over Protective Structures in the construction standards in 29 CFR, 1926. This revision provides equipment manufactures with additional Roll-Over Protection Structures testing options and will not reduce employees' protection. In reinstating the original standards, OSHA is reinstating the cold temperature testing and impact testing option, reinstating static or dynamic testing at 0 degrees Fahrenheit as well as the testing exemption in the original Roll-Over Protection Structure. OSHA published in 71 FR 41127-41161, July 20, 2006, additional revisions that only made various plain language revisions to the construction of Roll-Over Protection Structures text. OSHA is correcting and/or clarifying the existing regulatory requirements of the Roll-Over Protective Structure standards.

Notices of Proposed Rulemaking

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The Federal Occupational Safety and Health Administration has determined that these amendments will have little financial impact for the construction sector and has determined the amendments to be economically feasible for all industries including small business. Cost and benefit analysis of these amendments is available for inspection, review, and copying at the Industrial Commission of Arizona, Division of Occupational Safety and Health, 800 W. Washington St., Phoenix, AZ 85007.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: William M. Wright, Assistant Director
Address: Industrial Commission of Arizona
Division of Occupational Safety and Health
800 W. Washington St., Suite 203
Phoenix, AZ 85007
Telephone: (602) 542-1695
Fax: (602) 542-1614
E-mail: wright.william.m@dol.gov

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

An oral proceeding has been scheduled as follows:

Date: November 1, 2006
Time: 9:00 a.m.
Location: Hearing Room A, 1st floor
Industrial Commission of Arizona
800 W. Washington St.
Phoenix, AZ 85007

Written comments may be submitted on or before 9:00 a.m., November 1, 2006.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

29 CFR 1926 *The Federal Occupational Safety and Health Standards for Construction* with amendments as of February 28, 2006, and additional revisions as of July 20, 2006. This incorporation by reference will appear in R20-5-601.

13. The full text of the rules follows:

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Section

R20-5-601. The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926

ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS

R20-5-601. The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926

Each employer shall comply with the standards in the Federal Occupational Safety and Health Standards for Construction, published in 29 CFR 1926 with amendments as of ~~September 12, 2002~~, July 20, 2006, incorporated by reference, ~~and on file with the Office of the Secretary of State~~. Copies of these reference materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to construction activity by all employers, both public and private, in the state of Arizona. This incorporation by reference does not include amendments or editions to 29 CFR 1926 published after ~~September 12, 2002~~, July 20, 2006.